

# Exhibit 28

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

XR COMMUNICATIONS, LLC, dba )  
VIVATO TECHNOLOGIES; )  
 )  
Plaintiff, )  
 ) Case No.  
vs. ) 6:21-cv-00695-ADA  
 )  
MICROSOFT CORPORATION; )  
 )  
Defendants. )  
\_\_\_\_\_ )

VIDEOTAPED REMOTE DEPOSITION OF ALLAN RAKOS  
Los Angeles, California  
Thursday, December 8, 2022

Reported by:  
Lynda L. Fenn, CSR, RPR  
CSR No. 12566  
JOB No. 5614008

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1 technical expert, are you? 10:33:33

2 A No. 10:33:35

3 Q Do you -- do you have a technical 10:33:35

4 background, like in computer science or electrical 10:33:39

5 engineering? 10:33:43

6 A No. 10:33:44

7 Q Do you have any expertise or specialized 10:33:44

8 knowledge in this technology? 10:33:52

9 A No, I do not. 10:33:54

10 Q And I believe that when you testified 10:33:56

11 earlier you mentioned that you had not really 10:34:06

12 reviewed the Vivato patents or -- is that correct? 10:34:08

13 A As I stated, I've seen the patent numbers. 10:34:16

14 Maybe a couple pages of them. I've never read them 10:34:23

15 or reviewed them. 10:34:26

16 Q And when approximately was the last time 10:34:27

17 that you saw the patent numbers or a couple of pages 10:34:30

18 from them? 10:34:33

19 A 2007, going into 2008. 10:34:33

20 Q Okay. So something like fifteen years ago 10:34:39

21 that you may have seen a couple of pages? 10:34:43

22 A Do the math, there you go, yeah. 10:34:46

23 Q And so your description of the technology 10:34:49

24 or patents, it wasn't specific to any particular 10:34:52

25 patent; correct? 10:34:57

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1	A	That's correct. It was more of a	10:35:01
2		generalized description from my understanding of the	10:35:06
3		technology.	10:35:09
4	Q	You were describing your nontechnical	10:35:09
5		understanding from fifteen years ago or so; correct?	10:35:12
6	A	Correct.	10:35:15
7	Q	So you contributed part of the money that	10:35:16
8		was used to acquire the Vivato patent portfolio;	10:35:33
9		correct?	
10	A	Correct.	10:35:39
11	Q	At that time Vivato was no longer in	10:35:39
12		business; correct? It had sort of wound down?	10:35:43
13	A	I think they still may have been in	10:35:47
14		business. I am not sure of that.	10:35:57
15	Q	Would you say that a large part of the	10:36:02
16		acquisition was for the IP rights, the patent -- the	10:36:06
17		patents and patent applications that belonged to	10:36:10
18		Vivato?	10:36:17
19	A	The acquisition was, in my opinion,	10:36:17
20		two-fold. One, you are correct about the	10:36:22
21		intellectual property patents; two, was the existing	10:36:24
22		inventory of product.	10:36:27
23	Q	Okay. You also testified earlier that	10:36:28
24		there were two high-level strategies as part of your	10:36:36
25		work on Vivato. And I believe you testified, one,	10:36:41

1 was to grow the company to be highly profitable or, 10:36:44  
2 two, sell the patents at some point in time because 10:36:48  
3 of their value; is that correct? 10:36:51  
4 A Correct. 10:36:55  
5 Q Now, do either of those strategies involve 10:36:55  
6 deliberately abandoning the patents or patent 10:37:01  
7 applications? 10:37:04  
8 A None whatsoever, to my knowledge. I've 10:37:05  
9 never discussed that with anyone. 10:37:09  
10 Q Would that be the opposite of those goals, 10:37:13  
11 to deliberately abandon patent applications? 10:37:20  
12 A Well, personally from my pretense, yes, it 10:37:24  
13 would be. 10:37:30  
14 Why would I invest money in something that 10:37:31  
15 I would turn around and abandon? That doesn't make 10:37:33  
16 sense. 10:37:38  
17 So those two strategies were initially 10:37:38  
18 talked about, growing the company or at some point an 10:37:41  
19 acquisition of the patents. 10:37:45  
20 Q And in all of your involvement with Vivato, 10:37:46  
21 have you heard anyone talk about an intention or 10:37:48  
22 desire or a strategy to abandon the patent 10:37:54  
23 applications or allow them to become abandoned? 10:37:58  
24 A No, none whatsoever. 10:38:03  
25 Q Did you hear -- did you ever hear of any 10:38:14

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1 warning or knowledge that the patents would be 10:38:17  
2 abandoned or could be abandoned? 10:38:24  
3 A No. 10:38:30  
4 MR. MCCULLOUGH: Objection; form. 10:38:32  
5 MR. WANG: I have no further questions. 10:38:41  
6 Thank you, Mr. Rakos. 10:38:43  
7 THE VIDEOGRAPHER: This is the 10:38:58  
8 videographer, are there any additional questions? 10:39:01  
9 MR. MCCULLOUGH: I don't have anything 10:39:03  
10 else. Any of the other defendants' attorneys? 10:39:04  
11 MR. SHIMELL: None for me. 10:39:08  
12 THE VIDEOGRAPHER: All right. I think it's 10:39:12  
13 fair to say that there are no additional questions. 10:39:14  
14 If it's okay with all to end the video portion of the 10:39:17  
15 deposition. It is 10:39 a.m. This is the end of the 10:39:19  
16 video portion of the deposition. Off the record. 10:39:24  
17 THE COURT REPORTER: Mr. Wang, would you 10:39:33  
18 like a copy of the transcript? 10:39:55  
19 MR. WANG: Yeah, if I could have a rough 10:39:56  
20 and then standard delivery would be fine for us. 10:39:59  
21 THE COURT REPORTER: Okay. Ms. Hamming, 10:40:04  
22 would you like a copy of the transcript? 10:40:06  
23 MS. HAMMING: Yes, same thing, a rough and 10:40:07  
24 then standard. 10:40:09  
25 THE COURT REPORTER: Mc. McCullough, you

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PENALTY OF PERJURY CERTIFICATE

I, ALLAN RAKOS, do solemnly declare under penalty of perjury, under the laws of the State of California, that the foregoing is my deposition under oath; that these are the questions asked of me and my answers thereto; that I have read same and have made the necessary corrections, additions, or changes to my answers that I deem necessary.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_, California.

\_\_\_\_\_  
ALLAN RAKOS

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